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MT LEGISLATIVE HISTORY

Chapter 398 1985

Bill (H) 516 S _____ Original bill & hist. ___C

H. Committee on Natural Resources		S. Committee on Local Government	
Hearing Date(s) Feb 01	✓C	Hearing Date(s) mar 21	✓C
Feb 08	✓C	mar 23	✓C
Feb 25	✓C	_____	___C
_____	___C	_____	___C
Date Out Feb 25	✓C	mar 23	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

49TH LEGISLATIVE SESSION

COMMITTEE ON NATURAL RESOURCES

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 6	1/7/85	1/9/85	1/14/85			1/14/85			
HB 81	1/7/85	1/18/85	1/18/85	1/18/85					
HB 158	1/14/85	1/25/85 1/28/85							
HB 178	1/14/85	1/21/85	1/21/85	1/21/85					
HB 179	1/15/85	1/21/85							
HB 180	1/14/85	1/21/85	1/21/85	1/21/85					
HB 312	1/22/85	2/23 3/20							
HB 316	1/22/85	1/25/85	1/25/85	1/25/85					
HB 362	1/22/85	2/8 2/11	2/15/85			2/15/85			
HB 396	1/23/85	1/28/85	2/22/85	2/22/85					
HB 434	1/23/85	2/1/85	2/8/85			2/8/85			
HB 493	1/28/85	2/13/85	2/22/85			2/22/85			
HB 494	1/28/85	2/13/85	2/22/85			2/22/85			
HB 495	1/28/85	2/13/85	2/22/85			2/22/85			
HB 516	1/28/85	2/1 2/8	2/25/85			2/25/85			
HB 543	1/29/85	2/4/85	2/4/85	2/4/85					

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 1, 1985

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson at 3:15 p.m. in Room 312-1 of the Capitol Building.

ROLL CALL: All members were present.

HOUSE BILL 516: Rep. Kerry Keyser, Dist. 74, introduced House Bill 516, of which he is the sponsor. He said the purpose of HB 516 was to allow potential developers of subdivisions to carry out and complete subdivisions under the same regulations that were in effect when applications for such subdivisions were first approved. Such a policy would save time and cost by not forcing developers to adapt plans once a project is underway.

Terry Carmody, representing the Montana Association of Realtors, spoke in support of HB 516.

There were no further proponents present.

Steve Pilcher, representing the Water Quality Bureau of the Dept. of Health and Environmental Sciences, said the department opposes HB 516 because it already has a policy of reviewing subdivision development in accordance with those rules that were in effect when the project was approved. He said HB 516 could result in reduced flexibility by the department in regulating subdivision development.

There being no further opponents, the floor was opened to questions from committee, which centered primarily on the question of whether legislation already in place covers the problem addressed in HB 516.

Rep. Keyser closed by saying that HB 516 is necessary legislation.

The committee agreed to take further action on HB 516 after receiving proposed amendments to the measure.

HOUSE BILL 434: Rep. Ted Schye, Dist. 18, was at another hearing, and was unable to introduce HB 434, of which he was the chief sponsor. Rep. Kelly Addy, Dist. 94, introduced the bill on Rep. Schye's behalf.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 1, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL HOUSE BILL NO. 516 DATE FEBRUARY 1, 1985

SPONSOR REP. KERRY KEYSER

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Steve Elder	Helena	DHES		✓
Tracy Stroody	Helena	MT Assn of REALTORS	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

H.S. Hanson, representing the Montana Technical Council, supported HB 633, saying it would add stability to the subdivision review process.

Don Reed, representing the Montana Environmental Information Center, said the instability of funding could work against competent, professional review of subdivisions, and supported HB 633 as a solution. A copy of his testimony is attached as Exhibit 4.

Rep. Ben Cohen, DIstrict 3, spoke on behalf of the Whitefish City County Planning Board in support of HB 633.

Terry Carmody, representing the Montana Association of Realtors, said HB 633 would offer protection to the public that would make up for the use of general fund money.

Chairman Iverson read a telephone message from Betty Beal, of the Flathead Protection Association, in support of the bill.

No opponents rose against HB 633, and the floor was opened to questions from committee.

Rep. Miles asked Steve Pilcher of the Water Quality Bureau about budget difficulties under the current system of depending on lot fees for revenue. Mr. Pilcher said that it is almost impossible to predict subdivision activity, and that problem is complicated by the fact that different types of lots are subject to varying fees. He explained that it is hard for a program to operate on unknown funding, and that the subdivision review bureau has held off on filling a vacant position because that position might have to be terminated if lot fees decrease.

Chairman Iverson asked if a fiscal note should have been prepared to accompany the bill, and Rep. Lory said he did not ask for one because the bill will have to go to the appropriations committees, and also because he thought the money taken from the general fund would likely be balanced over time by lot fees going into the general fund.

EXECUTIVE ACTION

HOUSE BILL 633: The committee moved immediately to executive action, and Rep. Asay made a DO PASS motion on HB 633. That motion was passed unanimously.

HOUSE BILL 516: Committee reseacher Hugh Zackheim explained three amendments proposed for HB 516, which was introduced on February 1. Those amendments, he said, would close a potential loophole for extensions; clarify terminology relating

to DHES regulations; and make the bill conform with current DHES rules on water quality. A copy of those proposed amendments is attached as Exhibit 5.

Rep. Tom Jones made a DO PASS motion on the amendments, which carried unanimously. Rep. Jones then moved DO PASS AS AMENDED on the bill.

Rep. Miles said she was still somewhat confused on how HB 516 would improve on existing statutes covering subdivisions. She also cautioned the committee that the bill appears to be directed at regulating both state and local subdivision rules, which she said are very different matters. She said Title 90 of MCA already says that subdivision rules will not be changed to the detriment of the applicant once an application for a subdivision has been approved.

Rep. Raney asked if there was any time limit within which a subdivision would have to be built after approval in order to be allowed to rely on the rules in effect at the time of approval. Researcher Hugh Zackheim said it was his understanding of the bill that the time would be indefinite.

Rep. Raney said that although he understands the reason for allowing development and construction to continue under the rules in effect at the time of applications, he was not comfortable with the idea that no new regulations could be enforced at a later time, even if such new regulations were clearly necessary.

Rep. Kadas made a substitute motion to table HB 516, which carried, with Reps. O'Hara, Cobb, Iverson and Jones voting no.

HOUSE BILL 434: Hugh Zackheim explained a list of proposed amendments to HB 434, which had been suggested by the Montana Coal Council and the Montana Mining Association.

Rep. Asay made a DO PASS motion on the proposed amendments, which were then discussed in committee. Rep. Addy asked about the difference between "reasonable inquiry" and the proposed substitute, "with due diligence." Rep. Krueger said the difference was nebulous, but that he thought due diligence might require a higher standard of responsibility.

Rep. Addy moved to strike proposed amendment 11, which carried unanimously. The committee then unanimously adopted the remaining amendments, as moved by Rep. Asay.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 8, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward			X
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

CS-30

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 25, 1985

The meeting of the House Natural Resources Committee was called to order by Chairman Dennis Iverson at 12:05 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members of the committee were present.

EXECUTIVE ACTION

HOUSE BILL 827: Rep. Kadas moved DO PASS on HB 827, which was heard on February 23. Rep. Miles moved the amendments to HB 827 which were proposed by Rep. Lory. The amendments, she said, incorporated Rep. Brandewie's definition of subdivision into the language of HB 827. She said the amendments also resolved the "family conveyance issue" by clarifying survey guidelines and exceptions, allaying the concern that expensive surveys would be required. The Lory amendments were unanimously approved.

Rep. Asay spoke against the bill, saying HB 827 is "nothing more than just another infringement" on the rights of property owners. Current subdivision regulations are unworkable because people don't want and cannot use twenty acres, he said.

Rep. Miles said HB 827 is necessary because it deals with issues of sanitation and health, and insures that all plats of subdivided land are salable.

Rep. Kadas moved DO PASS AS AMENDED, which received a tie vote, and the bill left committee without recommendation.

HOUSE BILL 791: Rep. Kadas moved DO PASS on HB 791, Rep. Brandewie's subdivision bill, which was heard in committee on February 23. The motion passed with Reps. Moore and Cobb voting no.

HOUSE BILL 516: Rep. Cobb moved DO PASS AS AMENDED on HB 516, which passed unanimously.

There being no further business before the committee, the meeting was adjourned at 12:20 p.m.

Rep. DENNIS IVERSON, Chairman

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 25

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly			X
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

STANDING COMMITTEE REPORT

February 22 25 19 25

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 516

FIRST reading copy (WHITE color)

AN ACT TO PROVIDE THAT LOCAL GOVERNING BODIES AND THE DNRC MAY APPLY ONLY THOSE RULES IN EFFECT AT THE TIME A SUBDIVISION APPLICATION IS SUBMITTED FOR REVIEW

Respectfully report as follows: That HOUSE Bill No. 516

BE AMENDED AS FOLLOWS:

1) Page 2, line 10
Following: "plat"
Insert: "or for an extension under 76-3-610"

2) Page 4, line 11
Following: "time"
Strike: "an application is"
Insert: "plans and specifications are"

3) Page 4, line 12
Following: "department"
Insert: ", except in cases where current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time such lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality will apply."

AS AMENDED,

DO PASS

STATEMENT OF INTENT ATTACHED

Chairman.

DENNIS IVERSON.

COMMITTEE SECRETARY

STATE PUB. CO.
Helena, Mont.

February 23 19 75

STATEMENT OF INTENT ON HB 515

It is the intent of the legislature that a subdivision be reviewed under the rules in effect at the time an application for approval of the subdivision is submitted. Neither a local governing body (under the provisions of the Montana Subdivision and Platting Act) nor the department of health and environmental sciences (under Title 76, chapter 4, part 1) may modify its subdivision rules and apply the modified rules to a subdivision ~~xxx~~ submitted for review when previously existing rules were in effect.

Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL 516
Rep. Keyser
House Natural Resources

PROPOSED AMENDMENTS TO HB 516

1) Page 2, line 10
Following: "plat"
Insert: "or for an extension under 76-3-610"

2) Page 4, line 11
Following: "time"
Strike: "an application is"
Insert: "plans and specifications are"

3) Page 4, line 12
Following: "department"
Insert: ",except in cases where current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time such lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality will apply"

MON... LEGISLATIVE ... DATE STATUS ...
FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) LOCAL GOVERNMENT

RUN TIME 18:07
RUN DATE.... 04/29/85

CHAIRMAN--FULLER, DAVE
NORMAL SCHEDULE==> SITE: ROOM 405 DAYS: TU-TH-SAT TIME: 12:30-2:30 P.M.

SECRETARY-GHILARDI, CHERYL

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM---	DATE OUT
HB0436	2/08	3/12	3/16	CONCUR AS AMENDED		3/16
LORY, EARL C.			REQUIRE CONSERVATION DISTRICT BOARD MEMBERS ON CITY-COUNTY PLANNING BOARD			
HB0457	2/14	3/23		CONCUR		3/23
NATHE, DENNIS G.			UNDERSHERIFF, FORMER DEPUTY, RETURN TO OTHER DUTIES WHEN SUCCESSOR NAMED			
HB0470	2/16	3/14		CONCUR		3/14
SPAETH, GARY			TOWN MAY SPEND PORTION OF GASOLINE TAX ON CAPITAL EQUIPMENT			
HB0483	2/21	3/14	3/16	CONCUR AS AMENDED		3/16
SPAETH, GARY			PROCEDURE TO DISSOLVE COUNTY WATER AND SEWER DISTRICT			
HB0484	2/21	3/14		CONCUR		3/14
PECK, RAY			METHOD TO CORRECT PROPERTY DESCRIPTION IN COUNTY WATER AND SEWER DISTRICT			
HB0496	2/22	3/26		CONCUR		3/26
DARKO, PAULA A.			AUTHORIZING FORMATION OF COUNTY PARK DISTRICTS			
HB0505	2/14	3/19		CONCUR		3/19
NATHE, DENNIS G.			ANNEXATION OF CONTIGUOUS LANDS - 2ND AND 3RD CLASS CITIES - CLARIFICATION			
HB0516	3/05	3/21	3/23	CONCUR		3/23
KEYSER, KERRY R.			PROHIBIT APPLYING MODIFIED SUBDIVISION RULES ONCE APPLICATION MADE			
HB0519	2/19	3/21	3/23	CONCUR		3/23
SALES, WALTER R.			PAYMENT OF PROPERTY TAXES REQUIRED BEFORE LAND MAY BE DIVIDED			
HB0558	2/22	3/19		CONCUR AS AMENDED		3/19
REHBERG, DENNIS R.			ANY FREEHOLDER ELIGIBLE TO VOTE ON ANNEXATION			
HB0564	2/22	3/16		CONCUR		3/16
MILLER, RON			ALLOWING CITIES AND TOWNS TO PAY BILLS BY CHECK			

Terry Carmody, Montana Association of Realtors, stated his support of the bill.

Riley Johnson, representing the Montana Homebuilders' Association, stated his support of the bill. He said he also has concerns about the lack of direction to local governments on interpretation.

Jim Richard, representing the Montana Association of Planners, stated his support of the bill.

Don Reed, representing the Montana Environmental Association, stated his support of the bill.

A letter of support was submitted by the Lewis and Clark County Commissioners. It is attached as Exhibit G.

OPPONENTS

Robert Custer, representing the Montana Association of Registered Land Surveyors, spoke in opposition to the bill. He said he supports the concept of the bill but is also concerned with the term "appropriate and proper." He said he is afraid that people would have to pay a lot of money for plans and specifications.

Julie Hacker, representing the Missoula County Freeholders Association, spoke in opposition to the bill. Her written testimony is attached as Exhibit H to these minutes.

Chairman Fuller opened the hearing for Committee questions.

Senator Crippen asked Mr. Money how he would define "proper and appropriate." Mr. Money said he would agree to have the bill amended to define these terms.

Senator Story expressed concern that they would be reviewing places such as mountain cabins and divided ranches for access. Mr. Richard said there is an agricultural exemption in the Subdivision and Platting Act. Senator McCallum said he felt this should be spelled out in the bill. He also said he feels there are too many regulations and requirements put on subdivisions and occasional sales.

The hearing was closed on HB 791.

CONSIDERATION OF HOUSE BILL 516: Representative Kerry Keyser, District #74, is the sponsor of this bill. The bill was introduced to provide that local governing bodies and the Department of Health and Environmental Sciences may apply only those rules in effect at the time a subdivision application is submitted for review.

PROPONENTS

Terry Carmody, representing the Montana Association of Realtors, stated his support of the bill.

Riley Johnson, representing the Montana Association of Builders, stated his support of the bill.

Jim Richard, representing the Montana Association of Planners, stated his support of the bill.

OPPONENTS

There were no opponents to the bill.

Chairman Fuller opened the hearing for Committee questions.

Senator Fuller asked if there was a particular incidence in Representative Keyser's area where the rules were switched on them. Representative Keyser said there was an incidence where the Department of Health switched the rules on them.

Senator Mohar asked if there were safeguards to prevent someone asking for an extension until new rules went into effect. Representative Keyser said there were safeguards to protect from this.

The hearing was closed on HB 516.

CONSIDERATION OF HOUSE BILL 890: Representative Red Menahan, District #67, is the sponsor of this bill. The bill was introduced to provide that a municipality may create a board to or may itself issue and renew cable television system franchises and may regulate cable service as authorized by federal law.

PROPONENTS

There were no proponents to HB 890.

OPPONENTS

Tom Harrison, representing the Montana Cable Television Association, spoke in opposition to the bill. He said the terms in the bill are subjective and confusing. He said he spoke with the Citizens' Advocate Office to find out what types of complaints had been received regarding cable television service. He said the types of complaints, i.e., busy telephones and not being able to get cable hookup immediately, were problems due to running a peak and valley business. He said they had tried to offer discounts while people were on vacation, but this resulted in a very large loss of revenue because people took advantage of it. He feels they have plenty of competition with people who put in satellite dishes.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th
~~XXXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-21-85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
13	Senator Crippen, Bruce	✓		
18	Senator Eck, Dorothy	✓		
11	Senator Harding, Ethel	✓		
47	Senator Hirsch, Les	✓		
4	Senator McCallum, George	✓ late		
28	Senator Mohar, John (V.Chair)	✓		
44	Senator Pinsoneault, Dick	✓ late		
19	Senator Regan, Pat	✓		
21	Senator Story, Pete	✓		
43	Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

Representative Hart said the Board of Crime Control had questioned whether the term "out of state" needed to be specifically included in the bill. Karen Renne will check into this.

The hearing was closed on HB 900.

ACTION TAKEN ON HOUSE BILL 890: Senator McCallum moved that HB 890 BE NOT CONCURRED IN. The motion passed unanimously. Senator McCallum will carry the Adverse Committee Report.

ACTION TAKEN ON HOUSE BILL 516: Senator Story moved that HB 516 BE CONCURRED IN. The motion passed unanimously. Senator Story will carry the bill.

ACTION TAKEN ON HOUSE BILL 519: Senator Regan moved that HB 519 BE CONCURRED IN. The motion passed with Senator Crippen voting no. Senator Regan will carry the bill.

FURTHER CONSIDERATION OF HOUSE BILL 673: Karen Renne explained the proposed amendments to the bill. They are attached as Exhibit B to these minutes. Amendments one and two were previously adopted by the Committee.

Senator McCallum moved that HB 673 BE NOT CONCURRED IN. The motion failed with Senators McCallum, Hirsch, and Story voting yes and Senators Fuller, Harding, Eck, Mohar, and Regan voting no.

Senator Mohar moved that the proposed amendments to the bill (three through six) be adopted. The motion passed unanimously.

Senator Eck moved that "ten working days" be changed to read "fourteen days". The motion passed unanimously.

Chairman Fuller said the bill would be held until the full Committee was present for the vote.

FURTHER CONSIDERATION OF HOUSE BILL 791: Karen Renne explained the proposed amendments to the bill. They are attached as Exhibit C to these minutes.

Senator Mohar expressed concern that if the intended use was for vehicle access, the local government would still be able to make a determination as to what kind of road they want put in, i.e., gravel or paved.

Senator Story said he feels if land is never intended for vehicular use, the local government should not be required to provide any services to that land.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-23-85

SENATE SEAT #	NAME	PRESENT	ABSENT	EXCUSED
13	Senator Crippen, Bruce			✓
18	Senator Eck, Dorothy	✓		
11	Senator Harding, Ethel	✓		
47	Senator Hirsch, Les	✓		
4	Senator McCallum, George	✓		
28	Senator Mohar, John (V.Chair)	✓		
14	Senator Pinsoneault, Dick			✓
19	Senator Regan, Pat	✓		
21	Senator Story, Pete	✓		
43	Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

MARCH 25 19 93

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE BILL No. 516

THIRD reading copy (BLUE color)

(STORY WILL CARRY)

PROHIBIT APPLYING MODIFIED SUBDIVISION RULES ONCE APPLICATION MADE

Respectfully report as follows: That HOUSE BILL No. 516

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Dave Fuller
Chairman.